

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

IN RE:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO  
RICO,

As representative of

THE COMMONWEALTH OF PUERTO  
RICO

Debtor.

PROMESA

Title III

No. 17-3283 (LTS)

**MOTION FOR RELIEF FROM STAY**

COMES NOW, Josué Aquino-Colón and the purported class (“Aquino” or “Movant”), through the undersigned counsel, to respectfully move the Court for an Order pursuant to 11 U.S.C. Sec. 362 for relief from the Automatic Stay and, in support of its motion, states as follows:

1. On September 23, 2015, Movant filed a Claim against the Commonwealth of Puerto Rico, KPE 2015-3235, under the Commonwealth’s Constitution, Puerto Rico Act 218 of 2014 (Act 218-2014) as well as Rule 20 of the Puerto Rico Rules of Civil Procedure (Class Action Suits) before the Court of First Instance in San Juan to contest the forfeiture of Movant’s automobile as well as all other forfeitures similarly situated that affect the purported class as a result of the Commonwealth’s violation of Act 218-2014.

2. The complaint narrates that on December 16, 2014 the Puerto Rico Legislature passed an amendment to Article 5.06 of the Puerto Rico Vehicle and Traffic

Act of 2000 raising the penalty for illegal car races to that of immediate seizure and impounding of the vehicle used in the illegal car race. The amendment was codified under Act 218-2014. Under Act 218-2014 the Legislature also ordered the Puerto Rico DMV to prepare and file the Administrative Remedies and Rules for the mentioned forfeitures. Act 218-2014 required the Rules to discuss “*everything necessary to the process of asset seizure*”. This would have provided the people with administrative remedies, guidance and venues to contest the seizure of the assets. The penalties of Act 218-2014 were immediate, however the Puerto Rico DMV published its Administrative Rules on August 25, 2015; almost 8 months after the approval of Act 218-2014.

3. Movant’s automobile was seized on February 17, 2015. During the 8 months between the approval of Act 218-2014 and the publishing of the DMV’s Administrative Rules the Commonwealth continued to illegally impound cars in prejudice of the people’s rights to a due process, which affected Movant and the purported class. The class requests the return of the vehicles or their fair value and damages.

4. On May 31, 2017, the Court of First Instance *sua sponte* took Judicial Knowledge that the Commonwealth had filed a bankruptcy petition under Title III of PROMESA, case no. 17-1578 (“Petition”), and that the filing of the Petition would have the effect of enforcing an automatic stay pursuant to Section 301(a) of PROMESA (“Section 301(a)”). The Order of the Court of First Instance was filed on June 13, 2017 and ordered Movant to answer within 20 days of receipt or otherwise it will order a stay in the proceedings.

5. Section 301(a) states that, among other things, 11 U.S.C. Sec. 362 of the United States Bankruptcy Code are applicable for petitions under Title III.

6. The automatic stay of case KPE 2015-3235 should be lifted pursuant to 11 U.S.C. Sec. 362 (d)(1) for cause, including but not limited to, lack of adequate protection.

7. The automatic stay should be lifted pursuant to 11 U.S.C. Sec. 362 (d)(2) because the Commonwealth of Puerto Rico has no equity in the forfeited vehicles and said vehicles are not necessary to an effective reorganization of the Commonwealth's businesses. Not lifting the stay would also protect the illegal actions of the Commonwealth in prejudice of the people's rights and would constitute an unfair enrichment.

WHEREFORE, Movant respectfully requests that the Court enter an order granting Movant relief from the automatic stay allowing Movant and the class to continue to contest the illegal forfeitures currently pending in the Court of First Instance and to pursue such additional actions as may be necessary and for such other and further relief as the Court deems proper.

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY: That on this same date, we electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF Filing system which will send a notification of such to the parties of record and to all interested subscribed users.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, this 13th day of June 2017.  
*S/ALLAN AMIR RIVERA FERNÁNDEZ*  
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